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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/928,608	08/13/01	WATANABE	T 44471-262265
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PM82/1004

EXAMINER
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CULBRETH, E

ART UNIT	PAPER NUMBER
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3611  
DATE MAILED:

10/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

**Office Action Summary**

Application No.

09/928,608

Applicant(s)

WATANABE, TSUYOSHI

Examiner

Eric Culbreth

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 8/11/2000. It is noted, however, that applicant has not filed a certified copy of the Japanese application as required by 35 U.S.C. 119(b).

### ***Drawings***

2. Figures 1-2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g).

See page 5, lines 12-15.

### ***Specification***

3. In view of the Office's new rules for making amendments, the following changes have been made to the specification by informal Examiner's amendment in order to spare applicant's having to replace entire paragraphs to change one word (these are grammatical and typographical errors):

- a. On page 2, line 19 « seats » was changed to "sits".
- b. On page 3, line 12, "a" was inserted after "form".
- c. On page 4, line 4 « the » was inserted before "middle".
- d. Also on page 4, line 18 "radius" was changed to " radii".
- e. On page 8, line 11 "the" was inserted before "process".
- f. On page 10, line 15 "others" was changed to "other".

4. The disclosure is objected to because of the following informalities.

Appropriate correction is required.

- a. Page 2, lines 6-13 constitute an incomplete sentence.
- b. On page 2, line and page 4, line 2, "defied" is not understood (apparently, this should be "defined").
- c. On page 6, line 21 "semi-circular" is not accurate (this should apparently be "arcuate sided" or something similar).
- d. Page 8, lines 2-10 are not clear, possibly due to awkward wording or idiomatic language.

***Claim Rejections - 35 USC § 112***

5. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are replete with instances of indefiniteness. Some examples are given below, the claims should be carefully reviewed and rewritten.

- a. in claim 1, line 2 "a" should precede "substantially".
- b. Regarding claim 1, lines 2-3, and throughout the claims, the phrase "box like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d). In fact, the bag in Figures 5-7 is not "box like" in that it has rounded sides and corners.
- c. In claim 1, line 10 "a" should precede "generally".
- d. In claim 1, line 11, "defied" should apparently be "defined".

- e. In claim 1, line 12 it is not clear which "first side portion" is meant, since two first side portions were earlier recited in the claim.
- f. Points c-e above also apply to claim 1, lines 19-21.
- g. In claim 1, line 23 "a" should precede "middle".
- h. In claim 3, "radius" should be "radii".
- i. Claim 4 has all the issues raised regarding claim 1 in one form or another.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 as best understood are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent 9-99795 (cited by applicant) in view of Krickl.

In Figure 1, Japanese '795 discloses upper and lower base cloths A and B with side and rear portions and smooth lower joining lines as claimed in claims 1 and 2. However, when the sheets are joined as in Figure 2, the curved lower joining line does cause a bulge of the lower portion toward the occupant. Krickl discloses a bag in which the seams along the lower side and rear facing portion result in the lower portion of the bag projecting toward the occupant (note Figure 1, where the lower portion of the bag projects away from inflation hole 12). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Japanese '795 to include a lower seam projecting the lower rear face toward the occupant such as taught by Krickl in

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order to better position the deployed bag relative to the occupant. Regarding claims 3 and 6, in the combination Krickl's lower joining line along edge 20 in Figure 2 has curvatures of different radii adjacent each other, and these features would be included in the combination.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tonooka discloses upper and lower pieces 46 and 52.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 8:30-6:00, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703/306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703/305-7687 for regular communications and 703/305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703/308-1113.



Eric Culbreth  
Primary Examiner  
Art Unit 3611

9/30/01

edc  
September 30, 2001